

DETAILED ACTION

Status of Claims

1. Claims 1-3 and 5 are rejected. Claim 6 is cancelled. Claims 4, 7-16 are withdrawn.
 2. Claims 1-3 and 5 are pending in this application. Claim 6 has been cancelled.
- This action is in response to the applicants' amendment after a non-final and reply filed on October 16, 2007.

Election/Restrictions

3. Examiner notes applicant's suggestion of MPEP §821.04. Upon the finding of any allowable claims, any applicable method claims will be rejoined and fully examined for patentability.

Status of Objections

4. The specification was objected to as not containing titles to distinguish the separate section of the specification. The objection to the specification is hereby upheld.
5. The specification was objected to for its use of trademarks without capitalization. The objection of the specification is hereby withdrawn due to applicant's amendments.
6. Claim 3 was objected to for its lack of punctuation between alternative Markush members. The objection of Claim 3 is hereby withdrawn due to applicant's amendments.

Status of Rejections

6. Claims 1-3 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicants arguments have not been found persuasive. Applicants were correct in pointing out examiner's mislabeling of the 5-position and 7-position when discussing the triazolopyrimidines.

Applicants argue within the claims that R³ may be any "optionally substituted unsaturated heterocycle" and lists a number of residue groups within the specification. Applicants have only demonstrated in the specification and shown in their examples where R³ can only be four heterocycles are shown. These include pyridyl, pyrimidyl, thienyl, and thiazolyl and are only substituted by either halogen or a trifluoromethyl group. Applicant fails to demonstrate any other type of "optionally substituted

unstarutated heterocycle." The rejection of Claims 1-3 and 5 are hereby upheld in view of applicants' arguments.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

7. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(a), as failing to comply with the novelty requirement. The rejection of the claims is hereby withdrawn due to applicant's amendments.

8. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a), as failing to comply with the non-obviousness requirement. The rejection of the claims is hereby withdrawn due to applicant's amendments.

New Rejections

Claim Rejections - 35 USC § 112, 2nd

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1-3 and 5, the scope of "unsaturated heterocycle" requires clarification since applicants' examples in the specification are not limited to particular groups. See definitions on p. 4 of the specification. Where applicants define terms with a special meaning, they must set out the special definition with "reasonable clarity, deliberateness and precision". Note *Teleflex v. Ficosa*, 63 USPQ2d 1374; *Rexnord Corp*

v. Laitram Corp. 60 USPQ2d 1851 and MPEP 2111.01. Claims which recite "optionally substituted" R choices are also rejected herein since "unsaturated heterocycle," and "optionally substituted unsaturated heterocycle" are described as examples of such.

Conclusion

10. Claims 1-3 and 5 are rejected.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey H. Murray whose telephone number is 571-272-9023. The examiner can normally be reached on Mon.-Thurs. 7:30-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached at 571-272-0661. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

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